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DEPARTMENT OF COMMERCE
International Trade Administration
[A-583-837]

Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet and strip (PET Film) from Taiwan. The period of review (POR) for this administrative review is July 1, 2009, through June 30, 2010. This review covers the following producers/exporters of the subject merchandise: Nan Ya Plastics Corporation, Ltd. (Nan Ya), and Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co., Ltd. (collectively, Shinkong). We invited interested parties to comment on our Preliminary Results.¹ Based on our analysis of the comments received, we have made changes to the margin applied to Nan Ya, which are discussed in the “Changes Since the Preliminary Results” section, below. Therefore, the final results for Nan Ya differ from the Preliminary Results. The final dumping margins for this review are listed in the “Final Results of Review” section, below.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Emily Halle, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department

¹See Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 76 FR 47540 (August 5, 2011) (Preliminary Results).

of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 428-3586 or (202) 482-0176, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2011, the Department published in the Federal Register the Preliminary Results.² Since the publication of the Preliminary Results, the following events have occurred. On August 15, 2011, the Department issued a post-preliminary supplemental questionnaire to Shinkong, and Shinkong timely filed its questionnaire response on August 25, 2011.³ The Department notified interested parties that they were to file their case briefs with the Department by September 1, 2011, and rebuttal briefs filed by September 19, 2011, in accordance with 19 CFR 351.309(d)(1).⁴ In response to timely requests from Nan Ya, case brief deadlines were extended twice by the Department to October 3, 2011.⁵ Nan Ya timely filed a case brief on October 3, 2011.⁶ On October 11, 2011, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, Petitioners), timely filed a rebuttal case brief.⁷

As discussed in the Preliminary Results, Nan Ya withheld requested information, which significantly impeded the proceeding, and failed to cooperate to the best of its ability. Therefore,

²Prior to publication of the Preliminary Results, Nan Ya informed the Department that it would not be responding to the Department's questionnaire and that it would not be participating in the 09-10 administrative review. See Memorandum from Gene H. Calvert to the File, "Preliminary Results in the Administrative Review on Polyethylene Terephthalate Film, Sheet and Strip from Taiwan (PET film): Nan Ya Plastic Corporation, Ltd. Non-Participation in the Administrative Review for the Period July 1, 2009, through June 30, 2010" (August 1, 2011) (Nan Ya's Non-Participation Memorandum).

³See Letter from Shinkong, "Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from Taiwan: Supplemental Questionnaire Response," dated August 25, 2011 (Post Preliminary Supplemental Response).

⁴See Letter from Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, to All Interested Parties, dated September 1, 2011.

⁵See Letter from Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, to All Interested Parties, dated September 9, 2011, and September 23, 2011.

⁶See Letter from Nan Ya, "Polyethylene Terephthalate (PET) Film from Taiwan," dated October 4, 2011.

⁷See Letter from Petitioners, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Petitioners' Rebuttal Brief," dated October 11, 2011.

pursuant to sections 776(a)(2)(A) and (C) and 776(b) of the Tariff Act of 1930, as amended (the Act), the Department preliminarily determined that the use of adverse facts available (AFA) for Nan Ya was appropriate, and assigned a rate of 99.31 percent, which was based on transaction-specific margins calculated for Nan Ya during the previous 2008-09 administrative review. Based on our analysis of the comments received, for the final results we have used data from the current POR, instead of secondary information and, thus, have revised the AFA rate for Nan Ya.

Period of Review

The POR is July 1, 2009, through June 30, 2010.

Scope of the Order

The products covered by the order are all gauges of raw, pretreated, or primed polyethylene terephthalate film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, “Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Issues and Decision Memorandum for the Final Results” (Decision Memorandum), dated concurrently with this notice, which is hereby adopted by this notice. A list

of the issues addressed in the Decision Memorandum is appended to this notice. The Decision Memorandum is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Department's Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn>. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Shinkong's Post Preliminary Supplemental Response stated that it incurred inland freight for subject merchandise that was returned during the POR, but that it did not provide any replacements for the returned merchandise.⁸ Shinkong provided the inland freight expenses incurred for returns, and the Department treated this expense as a warranty expense, part of direct selling expenses, and deducted it from the home market's net price build up.⁹ The inclusion of this additional data for the final results had no impact on Shinkong's weighted-average margin with respect to the Preliminary Results.¹⁰

In the Preliminary Results, the Department applied an AFA rate of 99.31 percent to Nan Ya because it did not respond to the Department's initial questionnaire.¹¹ Based on comments received, for the final results, we have revised the AFA rate for Nan Ya from 99.31 percent to 74.34 percent.

⁸See Post Preliminary Supplemental Response at 3.

⁹See Memorandum to Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, regarding "Analysis for the Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co. Ltd" dated concurrently with this notice for a detailed discussion of these changes.

¹⁰See id.

¹¹See Nan Ya's Non-Participation Memorandum.

A discussion of the Department's decision to revise Nan Ya's AFA rate can be found in the Decision Memorandum.

Final Results of Review

As a result of our review, we determine that the following weighted-average margins exist for the period of July 1, 2009, through June 30, 2010:

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Nan Ya Plastics Corporation, Ltd.	74.34
Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co., Ltd.	6.98

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We will instruct CBP to liquidate entries of merchandise produced and/or exported by Nan Ya and Shinkong. For assessment purposes, because Shinkong did not report either the identities of its importers or the entered values of its sales, we calculated customer-specific per unit duty assessment rates. Because Nan Ya reported no information to the Department for this POR, we will instruct CBP to apply an assessment rate to all entries it produced and/or exported equal to the weighted-average margin indicated above. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003.¹² This clarification applies to entries of subject merchandise during the POR produced by the companies

¹²See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate non-reviewed entries at the all-others rate of 2.40 percent from the investigation if there is no rate for the intermediate company(ies) involved in the transaction.¹³

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(2)(C) of the Act: (1) for the companies covered by this review, the cash deposit rate will be the rates listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and, (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 2.40 percent, the all-others rate established in the less than fair value investigation.¹⁴ These deposit requirements, when imposed, shall remain in effect until further notice.

¹³ See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174 (July 1, 2002) (Investigation Final Determination).

¹⁴ See Investigation Final Determination.

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Christian Marsh
Acting Assistant Secretary
for Import Administration

December 5, 2011
(Date)

Appendix – Decision Memorandum

- Comment 1: Whether Nan Ya's Preliminary AFA Rate is Unlawfully Punitive
- Comment 2: Whether Nan Ya's Preliminary AFA Rate is Corroborated
- Comment 3: Whether the Department Failed to Follow Past Court and Department Precedent with Respect to Nan Ya's Preliminary AFA Rate
- Comment 4: Whether Na Ya's Preliminary AFA Rate is Aberrational

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